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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,864

11/20/2003

Casey L. Kelly

3250.002

3077

26375

7590

03/21/2006

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EXAMINER

SWIATEK, ROBERT P

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/719,864	Applicant(s) KELLY, CASEY L.	
	Examiner Robert P. Swiatek	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Stovall (US 5,681,350). The Stovall patent discloses a method for replacing the hoof of a horse. As such, the method includes the steps of debridging those portions of a horse's hoof wall 17 that have been affected by a disease (column 3, line 32, of Stovall), cleaning the underlying dermal laminae 16 (column 3, line 34), coating solid particulate material with a polymeric resin into a resultant mass of viscous material 20 (column 3, lines 40-45), applying the viscous material to the void left by the removed hoof material (column 3, lines 50, 51) and sculpting the resin mixture with a trowel into the shape of a hoof wall while the mixture is still malleable (column 3, line 52), allowing the resin mixture to cure (column 3, line 55) into a solid (i.e., not loose, spongy, gaseous, or liquid), hardened mass and sanding or rasping the resultant hardened mass 20 into a final intended shape (column 3, lines 56, 57, of Stovall). Inasmuch as horseshoes come in various shapes and the prosthesis 20 of Stovall replaces a portion of what was originally the bottom wall of the natural hoof (note Figures 2, 3 of Stovall), the prosthesis is considered to possess a horseshoe shape. Although the material 20 of Stovall is applied to the hoof wall in a malleable, somewhat viscous state, to all intents and purposes the subsequent curing period

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results in a solid shape “able to support the horse’s weight” (see column 4, lines 4, 5, of Stovall), the term *solid* in this case meaning *hard* or *not in liquid or gaseous form*.

Applicant's arguments filed 6 January 2006 have been fully considered but they are not persuasive. Claims 1-3, 14 are not believed allowable for the reasons set forth in the above rejection.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Summary: Claims 1-3, 14 have been rejected; claims 4-13, 15, 16 have been canceled.

RPS: 571/272-6894  
16 March 2006

*Robert P. Swiatek*  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT ~~333~~ 3643